

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

SPORTS SHINKO CO., LTD.,)	CV 04-00124 BMK
)	CV 04-00127 BMK
Plaintiff,)	
)	CONSOLIDATED CASES
vs.)	
)	DECLARATION OF
QK HOTEL, LLC, et al.,)	GLENN T. MELCHINGER;
)	EXHIBITS “1” - “26”
Defendants,)	and “K-1”
)	
and)	
)	
FRANKLIN K. MUKAI, et al.,)	
)	
Third-Party Plaintiffs,)	
)	
vs.)	
)	
SPORTS SHINKO (USA) CO.,)	
LTD., et al.,)	
)	
Third-Party)	
Defendants,)	
)	
and)	
)	
SPORTS SHINKO (HAWAII) CO.,)	
LTD., et al.,)	
)	
Third-Party Defendants/)	

Counterclaimants,)
)
vs.)
)
QK HOTEL, LLC, et al.,)
)
Third-Party Counterclaim)
Defendants.)
)
AND CONSOLIDATED CASES)

DECLARATION OF GLENN T. MELCHINGER

Pursuant to 28 U.S.C. § 1746, I declare that:

1. I am an attorney with the law firm of Alston Hunt
Floyd & Ing, counsel for Plaintiff and Third-Party Defendants Sports
Shinko Co., Ltd., Sports Shinko (USA) Co., Ltd., Sports Shinko
(Hawaii) Co., Ltd., Sports Shinko (Mililani) Co., Sports Shinko
(Kauai) Co., Ltd., Sports Shinko (Pukalani) Co., Ltd., Sports Shinko
Resort Hotel Corporation, Sports Shinko (Waikiki) Corporation, and
Ocean Resort Hotel Corporation (collectively, the "SS Entities").

2. I make this declaration based on my personal knowledge and am competent to testify as to the matters set forth herein.

3. In 2003, I handled with Paul Alston the Case Ancillary to Foreign Proceeding Under 11 U.S.C. § 304, An. No. 02-04131, filed in the U.S. Bankruptcy Court for the District of Hawai'i on behalf of Sports Shinko Co., Ltd., *aka* Sports Shinko Kabushiki Kaisha ("SSJ") in November 2002 (the "*304 Proceeding*"). Pursuant to (a) a Rule 2004 subpoena in that ancillary case and (b) motions to compel production, SSJ obtained the *original* client files related to SSJ and its direct and indirect subsidiaries from the McCorriston Miller Mukai MacKinnon law firm. These documents are referred to herein as the "M4 Production." The McCorriston firm did not number stamp the production, but these original documents are the business records of the McCorriston law firm and part of their production pursuant to subpoena and court orders, despite the fact that they may bear SS's Bates stamp numbers.

4. Exhibit “1” is comprised of true and correct copies of a deposition transcript of Defendant Frank Mukai, taken on August 15, 2002, in a case brought by David Resnick against Sports Shinko (Kauai) Co., Ltd. in this Court on January 29, 2002, Civil No. 02-cv-00062 SPK/BMK.

5. Exhibit “2” is comprised of true and correct copies of Annual Reports filed in the Department of Commerce and Consumer Affairs for various Sports Shinko entities for the years 1989 through 2002, *and* a Declaration of Toshio Kinoshita filed on September 22, 2006 by the KG Defendants in a related case in the Circuit Court for the Second Circuit, Civil. No. 06-1-0233(3).

6. Exhibit “3” is true and correct copy of a declaration of Tsugio Fukuda (without exhibit) previously filed in this Court in February 2006 in opposition to the KG Defendants’ January 13, 2006 Motion for Summary Judgment.

7. Exhibit “4” is a true and correct copy of Exhibit “2” to the Deposition of Franklin Mukai started in this case on December 12, 2007 (the “Mukai Depo”), and relevant excerpts of the transcript thereto.

8. Exhibit “5” is a true and correct copy or the transcript from the oral deposition of Satoshi Kinoshita started on April 19, 2005 in a related case in the Circuit Court for the First Circuit, State of Hawaii (*Sports Shinko (USA) Co., Ltd. et al. vs. Resort Management Services (Hawaii), Inc.*; Civil No. 02-1-2766-11 (EEH) (the “**RMS Litigation**”) (hereinafter the “Satoshi Depo”), and Exhibit 1 to said deposition, and an English translation and certification of the translation by Steve Silver submitted to this Court previously.

9. Exhibit “6” is a true and correct copy of excerpts from the Satoshi Depo.

10. Exhibit “7” is a true and correct copy of printouts from a search I conducted on the Hawai`i Department of Commerce and Consumer Affairs website for the management companies referred to therein, showing the date of dissolution.

11. Exhibit “8” is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 28 to said deposition.

12. Exhibit “9” is a true and correct copy of excerpts of the Mukai Depo.

13. Exhibit “10” is a true and correct copy of a document recently produced to Sports Shinko as part of a recent electronic document production by Satoshi Kinoshita.

14. Exhibit “11” is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 27 to said deposition, and a partial English translation of Exhibit 27 to the Satoshi Depo and the certification of Steven Silver regarding the English translation.

15. Exhibit “12” is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 5 to said deposition.

16. Exhibit “13” is a true and correct copy of Exhibit “K-C” to the Declaration of David Klausner, and the Declaration of David Klausner, previously submitted to this Court in February 2006.

17. Exhibit “14” are true and correct copies of business record documents produced by SS’s accounting firm, Grant Thornton pursuant to a subpoena served by the KG Defendants in the SS-KG consolidated lawsuits, and the declaration of Howard Hanada and attached exhibits from GT’s document production pursuant to subpoena.

18. Exhibit "15" is a true and correct copy of excerpts to the Satoshi Depo and Exhibit 54 to said deposition.

19. Exhibit "16" is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 29 to said deposition.

20. Exhibit "17" is a true and correct copy of a document I found in files recovered from the "unallocated clusters" (space in which partially deleted files reside) of a Sports Shinko harddrive used by Satoshi Kinoshita at an Ocean Resort Hotel Waikiki office, using the forensic process described in the declaration of David Klausner in Exhibit "13" attached hereto. Mr. Mukai was apparently unable to locate this document among his SS client files.

21. Exhibit "18" is a true and correct copy of the Session Laws of Hawai'i that I caused to be obtained that show the change in the resident director provisions of the Hawaii Business Corporations law.

22. Exhibit "19" is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 57 to said deposition, and a

partial English translation of Exhibit 57 to the Satoshi Depo and the certification of Steven Silver regarding the English translation.

23. Exhibit "20" is a true and correct copy of excerpts of Defendant Frank Mukai's Answers to Plaintiff and Third Party Defendant Sports Shinko Co., Ltd.'s First Request for Answers to Interrogatories Dated 5/8/07, Interrogatory No. 2, served on my firm in this litigation.

24. Exhibit "21" is a true and correct copy of M4 documents produced to SSJ pursuant to Rule 2004 subpoena in the aforementioned 304 Proceeding.

25. Exhibit "22" is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 24 to said deposition.

26. Exhibit "23" is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 30 to said deposition.

27. Exhibit "24" is a true and correct copy of excerpts from the Satoshi Depo and Exhibit 37 to said deposition.

28. Exhibit "25" is a true and correct copy of excerpts to the Mukai Depo and Exhibit 6 to said deposition.

29. Exhibit "26" is a true and correct copy of a letter the Trustee recovered from SSJ records and provided to Paul Alston and me, and is part of SSJ's production in this case. Mr. Mukai was apparently unable to locate this letter among his client files.

30. Exhibit "K-1" is a true and correct copy of Exhibit "K-1" filed herein on December 19, 2007, consisting of a true and correct copy of the Declaration of Keijiro Kimura, the former Deputy Bankruptcy Trustee for SSJ, Exhibit "K-1" to that declaration, and an English translation and certification of the translation by Steven Silver.

31. I assisted the Deputy Trustee for SSJ in the sale of the Kiahuna Golf Club and Kauai properties that were in dispute in a case filed in this Court on January 29, 2002 (Civil No. 02-cv-00062 SPK/BMK). Those Kauai properties were sold to a nominee of David Resnick for \$9.85 million.

32. I handled the above described RMS Litigation and recovered the Maui property reflected in Exhibit "23" in December 2004 in settlement of claims brought by SS companies.

I handled the re-sale of the Maui property, which was sold for over \$550,000 in 2005.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawai'i on January 11, 2008.

/S/ Glenn Melchinger
GLENN T. MELCHINGER